

S.B.CIVIL WRIT PETITION NO.4762/2003

Moti Lal
V.
State of Rajasthan & Ors.

DATE OF ORDER :: 10th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. C.R.Jakhar, for the petitioner.
Mr. Shyam Ladreacha, Addl.Govt.Advocate.

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For the purpose of appointment to the post of Assistant Sub Inspector (Intelligence) the Additional Director Police (Intelligence) Rajasthan, Jaipur by an advertisement dated 21.11.2001 invited applications from eligible candidates. A condition with regard to physical fitness of an aspirant to be appointed as Assistant in Sub Inspector (Intelligence) as prescribed in the advertisement dated 21.11.2001 was that the incumbent must be having chest with the measurement of 81 cms with an expansion of atleast 5 cms i.e. upto 86 cms.

The petitioner considering himself eligible to be appointed as Assistant Sub Inspector (Intelligence) submitted an application and he was called for to face written test, that was qualified by him, accordingly under a communication dated 18.7.2003 he was called for to face physical fitness test on 22.8.2003 at Police Training Centre, Mandore Road, Jodhpur. A selection committee consisting of Inspector General of Police, CID (Intelligence); DIG, CID

(Intelligence) and Superintendent of Police, Jaipur District Headquarters examined physical fitness of the candidates called for to face it. It is alleged by the petitioner that his chest without inflation was more than 81 cms and was also having expansion of more than 5 cms but the members of the selection committee erroneously declared him failed in physical fitness by treating chest measurements less than the required under the advertisement dated 21.11.2001.

The father of the petitioner made a complaint in this regard to the Head of the Selection Committee on 23.8.2003 by submitting a representation by FAX. The petitioner on 23.8.2003 also got himself physically examined by Medical Officer, Government Hospital, Rajasthan High Court Campus, Jodhpur wherein his chest measurements were found 83 cms (without inflation) to 88 cms (on expansion). However, no action was taken by the respondents for redressal of the grievance of the petitioner. The petitioner in the circumstances stated above preferred this petition for writ before this Court on 26.8.2003.

This Court by order dated 27.8.2003 pleased to issue notice to show cause to the respondents, however, the application seeking interim direction was rejected on the same day. In pursuant to the order dated 27.1.2005 passed by this Court the respondents produced the entire record of selection proceedings

before this Court and from perusal of the result sheet of height and chest measurements it reveals that the chest measurement of the petitioner was found 79-86 cms. by the selection committee. It also reveals that the physical fitness of all the candidates was examined in presence of a medical officer signatures of whom is available on result sheet referred above.

In reply to the writ petition the respondents have stated that the petitioner was taken of the field by selection committee as he failed to fulfil the standard of expansion and retraction of chest by minimum 5 cms. It is also averred that the measurement of the petitioner's chest was less than 81 cms., therefore, he could not be selected.

Heard counsel for the parties.

The controversy involved in this petition for writ revolves around examination of a fact as to whether the petitioner was having required chest measurement on the day of selection proceedings i.e. 22.8.2003. It is true that the petitioner on 23.8.2003 itself got himself examined by a medical officer at a Government Dispensary situated in High Court Campus, Jodhpur and his chest was found having measurement of 83-88 cms, but the chest of the petitioner was measured on 22.8.2003 by a competent selection committee in presence of a medical officer and that

measured it as 79-86. In view of it the determination about truth of the correct fact at this stage is quite tedious. By an interim order chest of the petitioner could have been examined on 27.8.2003 itself by constituting an independent medical board, however, the application seeking interim direction was rejected by the Court at the time of issuing notices, therefore, the petitioner missed that chance too. It is true that the standing orders prescribed by the government to hold selection proceeding for the purpose of appointment to Rajasthan Police Subordinate Service prescribes that on submission of a representation to selection committee making grievance in examining physical fitness the selection committee shall consider it objectively but in the instant matter the selection committee also failed to take any action on submission of the representation by father of the petitioner.

Be that as it may, in totality of facts and circumstances of this case after a lapse of about three years from the date of taking place of selection proceedings, I do not consider it appropriate to interfere with the matter by giving direction to the respondents to physically examined the petitioner afresh specially in the circumstances that the petitioner must have already crossed maximum age limit to be appointed as Sub Inspector Police (Intelligence) and the entire selection process has also acquired

finality long back. Worthwhile to note here that the petitioner is a member of OBC and he is entitled for five years exemption in maximum age limit i.e. of 23 years. The petitioner at the time of filing the writ petition was of 26 years, therefore, now he must have crossed the age of maximum age limit even by getting exemption being a member of OBC.

In view of whatever discussed above, this petition for writ is dismissed with no order to cost.

(GOVIND MATHUR),J.

kkm/ps.